

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

VICTORIA DICILLO, individually,) Case No.: 2:18-cv-00729-JCM-EJY
)
Plaintiff,)
)
v.)
)
GGP MEADOWS MALL L.L.C.; FOREVER)
21 RETAIL, INC.;)
SCHINDLER ELEVATOR)
CORPORATION; DOES I through X,)
inclusive; ROE CORPORATIONS XI)
through XX, inclusive,)
)
Defendants.

**STIPULATION AND ORDER TO EXTEND
CASE MANAGEMENT PLAN DEADLINES**
(Fourth Request)

Pursuant to LR IA 6-1 and LR 26-3, the parties, by and through their respective counsel of record, hereby stipulate and request that the Court reset the following Case Management Plan Deadlines as follows:

1. The parties have completed written discovery and taken the deposition of Plaintiff, Plaintiff's husband, Schindler's FED. R. CIV. P. 30(b)(6) deponent, Dr. Leo Germin, and John Koshak.

2. On June 24, 2021, the parties agreed that Defendants' counsel would depose Plaintiff's expert Richard P. Newman, MD, FAAN, on July 29, 2021 at 8 a.m. EDT. Plaintiff's counsel indicated that Dr. Newman would be available until 11 a.m. EDT on July 29, 2021 for his deposition. A true and accurate copy of the emails exchanged between the parties' counsel scheduling Dr. Newman's deposition for July 29, 2021 is attached as **Exhibit 1**.

3. On June 30, 2021, Defendants' counsel sent Plaintiff's counsel the Amended Notice of Deposition of Richard Newman for July 29, 2021 at 8 a.m. EDT and Subpoena. A true and accurate copy of the email sent to Plaintiff's counsel with the Amended Notice of Deposition and Subpoena is attached as **Exhibit 2**.

4. On July 28, 2021 at 2:38 p.m. EDT / 11:38 a.m. PDT, Plaintiff's counsel emailed Defendants' counsel that Dr. Newman "indicated he needed to be finished by 9:30 a.m. because he had something pop up on his calendar."

5. Defendants' counsel stated that ninety minutes would not be enough time to depose Dr. Newman and that Defendants had noticed and subpoenaed Dr. Newman for his deposition a month ago.

6. After various emails were exchanged between the parties' counsel, the parties agreed to reschedule Dr. Newman's deposition for August 6, 2021 at 8 a.m. EDT and extend the discovery deadline until August 6, 2021 to permit Defendants to depose Dr. Newman. A true and accurate copy of the emails exchanged between the parties' counsel is attached as **Exhibit 3**.

7. The parties are also currently engaged in a disagreement regarding Defendants' expert, Thomas F. Kinsora, Ph.D., and that disagreement is currently amidst motion practice before the Court. (Dkt. 73). Depending on the Court's ruling on Defendants' Motion to Compel, additional discovery may need to be conducted, *e.g.*, Defendants' disclosure of Dr. Kinsora expert report and Plaintiff's ability to depose Dr. Kinsora.

8. Pursuant to LR IA 6-1(a), the discovery deadline was previously extended on August 20, 2018 (Dkt. 26), January 10, 2019 (Dkt. 41), and July 29, 2019 (Dkt. 45). The parties further note that this case was stayed on October 2, 2019 pursuant to Defendant Forever 21, Inc., bankruptcy petition. (Dkt. 49). On March 24, 2021, the Court issued an Order lifting the

bankruptcy stay (Dkt. 67) and the Court entered its Order Resetting Case Management Plan and Other Related Deadlines on April 15, 2021. (Dkt. 71).

Accordingly, the parties request the discovery deadline be extended seven days to allow Defendants the time to depose Dr. Newman and the dispositive motion and pre-trial order deadlines extended thirty days to allow the parties to brief the issues surrounding Defendants' expert Dr. Kinsora and the Court to issue a ruling on the same.

DISCOVERY REMAINING

Pursuant to this Court's Order Resetting Case Management Plan and Other Related Deadlines, the parties agreed, *inter alia*, that Defendants had until July 30, 2021 to depose Dr. Newman and that discovery would close on July 30, 2021. (Dkt. 71 at 3 and 5). To allow Defendants to take the deposition of Dr. Newman, Defendants respectfully request an extension to and including August 6, 2021.

The deadline to request extension of discovery deadlines was July 9, 2021. As shown by Exhibit 1 and Exhibit 2, Defendants' counsel timely reached out to Plaintiff's counsel and scheduled Dr. Newman's deposition and timely provided Plaintiff's counsel the Notice of Deposition and Subpoena. As shown by Exhibit 3, it was not until less than eighteen hours before Dr. Newman's deposition that Defendants were informed that Dr. Newman claimed that he had a conflict with his schedule concerning the agreed upon deposition time. Pursuant to LR 26-3, good cause exists to extend the close of discovery to permit the Defendants to depose Dr. Newman.

The following is a list of current case management plan deadlines and the parties' proposed extended deadlines.

Scheduled Event	Current Deadline	Proposed Deadline
Close of Discovery	July 30, 2021	August 6, 2021
Dispositive Motions	August 30, 2021	September 29, 2021
Pre-Trial Order	September 30, 2021	November 1, 2021

Dated: **July 30, 2021**

<u>/s/ Joshua L. Benson (with permission)</u>	<u>/s/ Stephanie V. McGowan</u>
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<p><i>Attorneys for Plaintiff</i></p>	<p>and</p> <p>Kevin C. Schiferl (<i>pro hac vice</i>) Indiana Bar No. 14138-49 Stephanie V. McGowan (<i>pro hac vice</i>) Indiana Bar No. 30759-49 FROST BROWN TODD LLC 201 N. Illinois Street, Suite 1900 P.O. Box 44961 kschiferl@fbtlaw.com smcgowan@fbtlaw.com</p> <p><i>Attorneys for Defendants</i></p>

ORDER

IT IS ORDERED:

That the case management plan deadlines will be amended to set forth as follows:

Deadline	Current Deadline Date	Extension Sought
Close of Discovery	July 30, 2021	August 6, 2021
Dispositive Motions	August 30, 2021	September 29, 2021
Pre-Trial Order	September 30, 2021	November 1, 2021

IT IS FURTHER ORDERED that counsel for the parties shall review U.S. District Court for the District of Nevada Local Rule IA 10-1(a)(1) and comply with the same in the future.

IT IS SO ORDERED this 30th day of July, 2021.



UNITED STATES MAGISTRATE JUDGE

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